

REMARKS

The specification has been amended to delete reference to “optional substitution” in order to overcome the objection set forth by the Office.

Claim 1 has been amended for clarification and to expedite prosecution. Reference to pharmaceutically acceptable salts or diastereomers has been moved to the end of the generic description that ends in the middle of the claim prior to the listing of specific species. It is then repeated at the end in order to refer to these specific species. Thus, this is not a duplication, but refers to two different elements of the claims.

The description of Q and W has also been amended as will be further defined below. Reference to hydrates, solvates and crystal forms has been deleted.

The duplicative reference to salts and diastereomers has been removed from claim 2 and hydrate, solvate and crystal forms have also been deleted. Similar amendments have been made to claims 3, 4, 5 and 18. Claims 8 and 19 have been canceled to expedite prosecution. No new matter has been added and entry of the amendment is respectfully requested.

Applicants appreciate that the Office recognizes that the claimed compounds are inventive over the art. The formal rejections set forth are addressed below:

Specification

The informalities in the specification have been corrected.

Claim Objections

“Or” has been inserted in claim 2 as suggested and the R8 has been superscripted. The repetition now of the reference to pharmaceutically acceptable salts is not duplicative in view of the arrangement of this in the claims.

The Rejection Under 35 U.S.C. § 112, Paragraph 2

The terms “C₁₋₄aryl” and “C₁₋₄hetaryl” have been removed from the definition of A in claims 1 and 2. Claim 19 has been canceled.

As to the definition of Q and W, they are not defined twice, but rather defined in the alternative. Either Q is alkylene and W is present as defined or Q and W are both absent. This corresponds to the prior wording of the claim wherein Q was set forth as simply a bond. This definition was inconsistent with the presence of W, because then W could not be accommodated. It is believed that the current wording of the claim is clear; should the Examiner feel that this needs to be discussed, a telephone call to the undersigned is respectfully requested.

The Rejections Under 35 U.S.C. § 112, Paragraph 1

It is believed the foregoing explanation and amendment to the claims overcomes the objection to “trivalent alkylene”, and C₁₋₄ has been replaced prior to the designation of alkylene. The Examiner will appreciate that while the alkylene Q is a linker, if W is present, it has three substituents – A, N and W. However, this would be understood and thus the term “trivalent” has been deleted.

The rejection of claim 19 is mooted by its cancellation. Applicants do not agree with the assessment of the Office that this is not supported, but in order to expedite prosecution the claim has been canceled for the present. Applicants expressly reserve their right to file a continuing application directed to this subgenus.

Applicants are unclear as to why the reference to pharmaceutically acceptable salts now present in claim 3 finds no support in the disclosure. The compounds of claim 3 are, for the most part, members of the genus of claim 1 where pharmaceutically acceptable salts and diastereomers are disclosed.

The rejection of claims 1-5, 7-8, 13-17 and 19 under this statutory section due to objection to the terms "hydrate, solvate or crystal forms" has been obviated by amendment to the claims. Articulation of these particular forms is unnecessary as the generic scope of the claims would cover them anyway.

The rejection of claim 8 as failing to comply with the enablement requirement has been obviated by cancellation of this claim. This too is done to expedite prosecution without conceding in any way that the position taken by the Office is correct.

Double-Patenting

A terminal disclaimer with respect to copending application 10/585,916 is enclosed.

Conclusion

Applicants appreciate the indication that claim 18 is allowable. Amendments have been made to address the formal rejections made under § 112 of the patent law. There is no rejection

over the art. Therefore, claims 1-5, 7 and 13-18 are in a position for allowance and passage of these claims to issue is respectfully requested.

Should minor issues remain that might be settled over the phone, a telephone call to the undersigned is respectfully requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 415852001000.

Respectfully submitted,

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